

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 PM-04 NSC-05 SP-02 SS-15 L-03 CIAE-00

INR-07 NSAE-00 OMB-01 TRSE-00 ABF-01 /048 W

----- 099481

R 121031Z AUG 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC 8821

INFO SECDEF WASHDC

JCS WASHDC

CINCPAC

CINCPACAF

CINCPACFLT

CINCPACREPHIL

CG 13TH AF

C O N F I D E N T I A L MANILA 12106

CINCPAC ALSO FOR POLAD

FROM USDEL 201

E O 11652: GDS

TAGS: MARR, RP

SUBJ: PHILIPPINE BASE NEGOTIATIONS: CLAIMS

REF: A. STATE 19739, DTG 092213Z AUG 76

B. MANILA 10810, USDEL 152, DTG 230122Z JUL 76

1. SUMMARY: REDRAFT OF PARA 2 ON NO FAULT INSURANCE AS
CONTAINED IN REFTEL A MAY RESULT IN RP DENYING EXEMPTIONS
OR REOPENING PARA 1 TO DEFINE "MERITORIOUS". REQUEST RE-
CONSIDERATION. END SUMMARY.

2. US REPS IN LEGAL WORKING GROUP DISCUSSED SUGGESTED
MODIFICATIONS TO PARA 2 WITH RP REPS. RP POSITION IS THAT
NEW LANGUAGE IN EFFECT MODIFIES THE CONCEPT OF MERITORIOUS
CLAIMS AS CONTAINED IN PARA 1 IN THAT IT LIMITS THE POSSI-
BILITY OF PAYMENT OF ANY CLAIM WITHOUT PROOF OF NEGLIGENCE
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TO CLAIMS ARISING FROM THE OPERATION OF US MILITARY VEHICLES.

THEY STATED THAT THEY AGREED NOT TO DEFINE "MERITORIOUS" IN PARA 1 ON US REPS ASSURANCE THAT SUCH TERM ALLOWS US TO PAY ANY MERITORIOUS CLAIM CAUSED BY A MEMBER OF US FORCE OR INCIDENTAL TO NON-COMBATANT ACTIVITIES AND THE ABILITY TO SETTLE SUCH CLAIMS WITHOUT PROOF OF NEGLIGENCE WAS NOT LIMITED TO MOTOR VEHICLES. WHILE REASONABLE MEN MAY DIFFER ON INTERPRETATION BY RP REPS ON THIS POINT, NEVERTHELESS, THE ADDITIONAL WORDING HAS RESULTED IN PUTTING IN JEOPARDY EXEMPTION FOR NO FAULT INSURANCE. US REPS EXPLAINED TO RP REPS THAT IT WAS NOT US INTENTION TO MODIFY PARA 1 BY NEW WORDING IN PARA 2, BUT THEY WERE NOT CONVINCED.

3. IT SHOULD BE REMEMBERED THAT RP AGREEMENT TO THE LANGUAGE IN THE WORKING DRAFT IS IN FACT ACCEPTANCE OF THE WORDING IN OUR INITIAL PROPOSAL TABLED IN WASHINGTON. RP REPS FIND IT RATHER UNUSUAL FOR THEM TO ACCEPT WORDING WE TABLED IN THE OFFICIAL US DRAFT AGREEMENT ONLY TO FIND THAT THE US NOW WISHES TO MODIFY SUCH LANGUAGE. US REPS ALSO FIND THIS SOMEWHAT DIFFICULT TO UNDERSTAND.

4. IT SHOULD BE NOTED THAT RP REPS BELIEVE THAT AGREEING TO THE US WORDING FOR EXEMPTION FROM NO FAULT WAS A DIRECT CONCESSION ON THEIR PART WHICH IS POTENTIALLY OF SUBSTANTIAL FINANCIAL BENEFIT TO THE U.S. THEY NOTED THAT JUST THE OPPOSITE PROVISION IS CONTAINED IN THE SPANISH SOFA AGREEMENT. IF AT THIS STAGE THEY MUST GO BACK TO EXPLAIN TO RP DEL CHANGES IN THIS PARA REQUESTED BY US, THERE IS A DISTINCT POSSIBILITY THAT THE CLERKS IN THE INSURANCE OFFICE MAY JUMP IN AND RE-EVALUATE THE EXEMPTION GRANTED. RECENTLY, THERE HAVE BEEN ARTICLES IN THE LOCAL NEWSPAPER CRITICIZING THE PRESENT TEMPORARY EXEMPTION FROM NO FAULT BY US FORCES PENDING RENEGOTIATION OF THE MBA.

5. ACCORDINGLY, THE USDEL REQUESTS RECONSIDERATION OF THE NEED FOR THE ADDED WORDING SUGGESTED IN REFTTEL A. USDEL DOES NOT BELIEVE THE ADDITIONAL WORDING IS NECESSARY AS THE PROPOSAL CONTAINED IN REF B AND THE OFFICIAL US TABLED AGREEMENT CLEARLY INDICATE THAT PARAGRAPH IS ONLY ADDRESSING NO FAULT INSURANCE AND THE OPERATION OF US MILITARY VEHICLES. CONFIDENTIAL

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6. IN ORDER NOT TO JEOPARDIZE AGREEMENT ON EXEMPTION OF US MILITARY VEHICLES FROM PHIL NO FAULT INSURANCE REQUIREMENTS, BELIEVE WORDING CONTAINED IN PARA 2 OF CLAIMS ARTICLE REPORTED REF B ADEQUATELY PROTECTS US INTERESTS. RP REPS HAVE AGREED TO DELETE "PROCESS" FOR THE WORD "SETTLE". PARA 2 WOULD READ AS FOLLOWS: QUOTE: IN RECOGNITION THAT THE UNITED STATES AGREES TO SETTLE AND PAY SUCH MERITORIOUS

CLAIMS WITHOUT PROFF OF NEGLIGENCE OR FAULT, THE UNITED STATES SHALL NOT BE REQUIRED TO SECURE NO-FAULT OR OTHER FORMS OF INSURANCE FOR MOTOR VEHICLES OWNED AND OPERATED BY UNITED STATES FORCES. END QUOTE.

7. ACTION REQUESTED: APPROVAL OF THE ABOVE WORDING
ASAP.
SULLIVAN

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NNN

Message Attributes

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Margaret P. Grafeld
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